

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

MAGTEN ASSET MANAGEMENT CORPORATION  
and LAW DEBENTURE TRUST COMPANY OF NEW  
YORK,

Plaintiffs,

v.

NORTHWESTERN CORPORATION,

Defendant.

C.A. No. 04-1494-JJF

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MAGTEN ASSET MANAGEMENT CORPORATION,

Plaintiff,

v.

PAUL HASTINGS JANOFSKY & WALKER, LLP,

Defendant.

C.A. No. 04-1256-JJF

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MAGTEN ASSET MANAGEMENT CORPORATION,

Plaintiff,

v.

MIKE J. HANSON and ERNIE J. KINDT,

Defendants.

C.A. No. 05-0499-JJF

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**RULE 16 SCHEDULING ORDER**

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1.     **Consolidation of Actions and Commencement of Discovery.** The  
above-captioned cases (the “Consolidated Actions”) shall be consolidated solely for purposes of

discovery and other pre-trial proceedings. Except as provided otherwise below, discovery shall commence following the date on which this Court holds a conference with the parties to the Consolidated Actions pursuant to Fed. R. Civ. P. 16 (the “Rule 16 Conference”), and in accordance with any Scheduling Order entered by the Court thereafter, provided that the Court lifts any and all existing stays previously entered in any of the Consolidated Actions.

2. **Pre-Discovery Disclosures.** Initial disclosures required by Fed. R. Civ. P. 26(a)(1) and Local Rule 16.2 of the United States District Court for the District of Delaware (the “Local Rules”) were exchanged on January 20, 2006, and were subject to the following limitations: (a) no copies or description of documents pursuant to Rule 26(a)(1)(B) shall be required; (b) defendants in CA No.05-0499-JJF, having previously served their Initial Disclosures (the “Hanson & Kindt Disclosures”) prior to transfer of such action to this District, shall not be required to serve additional Initial Disclosures; (c) to the extent that information has already been provided in the Hanson & Kindt Disclosures, defendants in the other Consolidated Actions shall not be required to provide duplicative information in their Initial Disclosures.

3. **Joinder of Other Parties.** All motions to join other parties shall be filed on or before November 30, 2006.

4. **Discovery.**

(a) Fact discovery shall be completed on or before twelve (12) months from the date of the Rule 16 Conference.

(b) Each party shall be entitled to serve a maximum of twenty-five (25) interrogatories upon any other party in the Consolidated Actions.

(c) Expert reports required by Fed. R. Civ. P. 26(a)(2) shall be served on or before ten (10) months from the date of the Rule 16 Conference.

(d) Rebuttal expert reports shall be served on or before eleven (11) months from the date of the Rule 16 Conference.

(e) Expert discovery shall be completed on or before fourteen (14) months from the date of the Rule 16 Conference.

5. **Discovery Disputes.** Unless otherwise ordered by the Court or by a Special Master appointed by the Court, disputes between the parties relating to discovery in the Consolidated Actions shall be resolved in accordance with the applicable provisions of the Federal Rules of Civil Procedure and the Local Rules.

6. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before November 30, 2006.

7. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before sixteen (16) months from the date of the Rule 16 Conference.

8. **Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules. Any non-dispositive motion shall contain the statement required by Local Rule 7.1.1. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: [jjf\\_civil a@ded.uscourts.gov](mailto:jjf_civil_a@ded.uscourts.gov). The e-mail shall provide a short statement describing the emergency.

9. **Pretrial Conference and Trial.** After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

10. **Prior Dates Superseded.** All other dates previously stipulated or entered with regard to discovery or other pre-trial matters in any of the Consolidated Actions are superseded by this Scheduling Order.

Dated: \_\_\_\_\_, 2006

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HON. JOSEPH J. FARNAN, JR.  
UNITED STATES DISTRICT JUDGE